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MAY 30 2008

OFFICE OF PETITIONS

In re Application of
Mark D. Scott et al.
Application No. 09/323,765
Filed: June 1, 1999
Attorney Docket No. 259.006US1

ON PETITION

This is a decision on the second renewed petition under 37 CFR 1.137(b), filed April 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper appeal brief in response to the Final rejection mailed May 6, 2005 within the time period provided in 37 CFR 41.37(a)(1). No claims were allowed and the application became abandoned on May 27, 2006.

The petition decision mailed April 14, 2008 indicates the renewed petition under 37 CFR 1.137(b) filed August 27, 2007 was dismissed as failing to provide the proper reply in the form of a compliant appeal brief.


The instant renewed petition includes a substitute appeal brief and remarks concerning the examiner's points of non-compliance of the appeal brief. This is considered to meet the requirements under 37 CFR 1.137(b)(1).

The instant renewed petition satisfies the condition for revival pursuant to the provision of 37 CFR 1.137(b) in that (1) the reply in the form of an appeal brief; (2) the petition fee of \$750; (3) the required statement of unintentional delay; and (4) the terminal disclaimer and fee have been received. Accordingly, the appeal brief is accepted as having been unintentionally delayed.

The petition fee under 37 CFR 1.17(m) authorized in the instant renewed petition is not required as petitioner has already paid the petition fee. The \$770 fee will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

The application is being referred to Technology Center Art Unit 1649 for consideration of the appeal brief.



David Bucci
Petitions Examiner
Office of Petitions